

INVESTING IN ROMANIA



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LEGAL BACKGROUND

Over the last few years, the Romanian electronic communications sector has experienced an extremely dynamic development, the main characteristics of which are the constant rhythm of growth of investments and the processes of privatization and liberalization, on the ground of remarkable technological developments.



Currently, this sector has become mostly private, both from the point of view of the turnover and the share capital, and from the point of view of the number of subscribers, as a result of the exclusion of the state from the sector and of the private investments made in this field.

On September 26, 2002 a new enactment came into force, namely Emergency Ordinance 79/2002 regulating the general legal framework for the telecommunications field (the "Telecommunications Ordinance"), drafted in accordance with the provisions of Directive 2002/20/EC of the European Parliament and of the Council on the authorization of electronic communications networks and services and of Directive 2002/21/EC of the European Parliament and of the Council on a common regulatory framework for electronic communications networks and services.

The legal framework that regulates electronic communications is supplemented by Government Ordinance 34/2002, republished on May 5, 2008 on access to, and interconnection of, electronic communications networks and associated facilities, as well as their interconnection (which transposes in national legislation the provisions of Directive 2002/19/EC of the European Parliament and of the Council, having the same name) ("Access Ordinance") and by Law 304/2003 on universal service and users' rights relating to electronic communications networks and services (which transposes in national legislation the provisions of Directive 2002/22/EC of the European Parliament and of the Council, having the same name) ("Universal Service Law"), thus establishing the grounds for a proper environment for the liberalization of the electronic communications market.

The Access Ordinance was approved and amended by Law 527/2002, being subsequently amended by Emergency Ordinance 70/2006, by Law 370/2006 and by Law 133/2007.

Emergency Ordinance 134/2006 on the establishment of the National Authority for Regulation in Communications and Information Technology (the "ANRCTI Ordinance") reorganizes the National Authority for

Regulation in Communications ("ANRC"), the patrimony and the duties thereof being taken over by the National Authority for Regulation in Communications and Information Technology ("ANRCTI").

ACCESS OF THE ECONOMIC OPERATORS ON THE TELECOMMUNICATIONS SERVICES MARKET

Pursuant to the Telecommunications Ordinance, the access to the electronic communications networks and services is permitted to all operators of electronic communications networks and related service suppliers, on the basis of a general license, without requiring any other resolution or administrative act issued by the regulatory authority. The general license shall be drafted by the regulatory authority and shall set the conditions under which electronic communications networks and related services may be provided.

People who intend to provide electronic communication networks or services exclusively for private needs, are not required to send the above mentioned notice. The rights and obligations set forth in the general license shall apply to them appropriately.

The radio electric frequencies and numbering sources shall be allocated only based upon a license issued by the competent authority, in exchange for a utilization fee. The suppliers of electronic communications networks, authorized under the provisions of the Telecommunications Ordinance, are allowed to install, maintain, replace and move any elements of the electronic communications networks, as well as the terminals used for the provision of the electronic communications services, on, over, in or under public or private property real estate.

In order to facilitate access to the electronic communications market for any interested person, a series of rules and conditions for the operators and suppliers with significant market power has been established under the Telecommunications Ordinance.

Persons that, on December 31 of any year, are

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suppliers of public networks of electronic communications, of electronic communication services for the public, or suppliers of postal services, shall have to pay to ANRCTI an annual monitoring tariff for the next year, calculated as a percentage applied to the turnover obtained by each supplier one year before the year when the estimated monitoring tariff has to be paid. This percentage is determined annually by ANRCTI, and may not exceed 0.4% of the turnover.

PERSONAL DATA PROCESSING AND PRIVATE LIFE PROTECTION

Law no. 506/2004 disciplined the specific requirements for guaranteeing the right to the protection of private life with respect to the processing of personal data in the communications field. Said law transposes in the Romanian legislation Directive 2002/58/EC of the European Parliament and of the Council, of July 12, 2002 concerning the processing of personal data and the protection of privacy in the electronic communications sector.

According to the law, the confidentiality of the communications sent through public electronic communications networks and through electronic communication networks for public use, as well as the confidentiality of the related traffic data, are guaranteed. Listening,

registering, storing and any other form of interception or surveillance of the communications and traffic data are prohibited, with the exceptions explicitly and restrictively provided for under the law. To this effect, the supplier of an electronic communications service for public use is obligated to take all technical and organizational steps in view of guaranteeing the security of the service.

As far as unsolicited communications are concerned, it is prohibited to carry out commercial communications by using automatic call systems that require no human operator assistance, by facsimile or e-mail or by any other method that uses the electronic communication services for public use, with the exception of the case where the subscriber in discussion expressed in advance his/her express consent to receiving such communications. The breach of the aforementioned prohibition represents an infringement and is sanctioned by a fine ranging from RON 5,000 to RON 100,000, and in the case of companies the turnover of which is over RON 5 million, by a fine in the amount of up to 2% of the turnover.

UNIVERSAL SERVICE

The current legislative framework regarding universal service is based upon the aforementioned Universal Service Law.

According to the law, the right of access to the universal service represents the right of all final users on the Romanian territory to benefit from the services included in the scope of the universal service, at a certain level of quality, regardless of the geographical location and at accessible tariffs. One may thus outline three essential attributes of the services included in the scope of the universal service, as to final users: (i) availability: ensuring the supply of services included in the scope of the universal service; (ii) quality: ensuring a minimum level of quality of such services; (iii) accessibility: ensuring accessible tariffs for such services.

The services included in the scope of the universal service are as follows: (i) providing access to the public telephony network, at a fixed point; (ii) the service of information regarding subscribers and providing the subscribers' registers; (iii) access to public payphones.

Starting with October 21, 2008 a centralized database was created, in order to implement the service for telephone numbers portability. Therefore, starting with the same date, the clients who want to change their telephone operators can choose to do that without being forced to change their old telephone number.